CHAPTER 225

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 95-091

BY SENATORS Schroeder and Matsunaka;
also REPRESENTATIVES Chlouber, Lyle, and Schwarz.

AN ACT

CONCERNING FILINGS TO PERFECT SECURITY INTERESTS, AND, IN CONNECTION THEREWITH, CREATING A CENTRAL INDEXING SYSTEM AND MAKING APPROPRIATIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 4-9-203 (2), Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

4-9-203. Attachment and enforceability of security interest - proceeds - formal requisites. (2) No security interest in consumer goods owned by a married person and used primarily for family or household purposes, other than a security interest in property referred to in section 4-9-302 (3) or any purchase money security interest, shall be enforceable unless ~~both the~~ SUCH security agreement ~~and financing statement are~~ IS signed by both husband and wife if they are residing together at the time the security interest is created.

SECTION 2. 4-9-401 (1), Colorado Revised Statutes, 1992 Repl. Vol., as amended, is amended to read:

4-9-401. Place of filing - erroneous filing - removal of collateral - repeal. (1) (a) (I) The proper place to file in order to perfect a security interest is as follows:

~~(a)~~ (A) When the collateral is equipment used in farming operations, farm products including, but not limited to, crops growing or to be grown, farm products which have become inventory, accounts or general intangibles arising from or relating to the sale of farm products by a person engaged in farming, or consumer goods, then in the office of the county clerk and recorder in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of any county clerk and recorder. Notwithstanding the provisions of this paragraph (a) to the contrary, no

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~security interest~~ FINANCING STATEMENT filed after July 1, 1994, on farm products shall be deemed to be perfected unless an effective financing statement ~~for such farm products~~ is also appropriately filed pursuant to article 9.5 of this title. NO DEFECT IN THE DESCRIPTION OF THE COLLATERAL IN AN EFFECTIVE FINANCING STATEMENT SHALL AFFECT THE VALIDITY OF A FINANCING STATEMENT FILED WITH THE COUNTY CLERK AND RECORDER PURSUANT TO THE UNIFORM COMMERCIAL CODE. THE PRIORITY OF THE FILING TO PERFECT A SECURITY INTEREST SHALL BE DETERMINED BY THE DATE AND TIME THE FILING IS MADE WITH THE COUNTY CLERK AND RECORDER, IF AN EFFECTIVE FINANCING STATEMENT IS FILED NO LATER THAN FORTY-FIVE CALENDAR DAYS AFTER THE FILING WITH THE COUNTY CLERK AND RECORDER. IF AN EFFECTIVE FINANCING STATEMENT IS NOT FILED WITHIN SUCH FORTY-FIVE-DAY PERIOD, THE DATE AND TIME OF PERFECTION OF THE FILING SHALL BE DETERMINED BY THE DATE AND TIME OF THE FILING OF THE EFFECTIVE FINANCING STATEMENT, PURSUANT TO ARTICLE 9.5 OF THIS TITLE.

~~(b)~~ (B) When the collateral is timber to be cut or is minerals or other substances of value which may be extracted from the earth or accounts subject to subsection (5) of section 4-9-103, or when the financing statement is filed as a fixture filing (section 4-9-313) and the collateral is goods which are or are to become fixtures, then in the real estate records in the office of the county clerk and recorder in the county where the real estate concerned is located;

~~(c)~~ (C) In all other cases, in the office of the secretary of state.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 1996.

(b) (I) THE PROPER PLACE TO FILE IN ORDER TO PERFECT A SECURITY INTEREST IS AS FOLLOWS:

(A) WHEN THE COLLATERAL IS TIMBER TO BE CUT OR IS MINERALS OR OTHER SUBSTANCES OF VALUE WHICH MAY BE EXTRACTED FROM THE EARTH OR ACCOUNTS SUBJECT TO SUBSECTION (5) OF SECTION 4-9-103, OR WHEN THE FINANCING STATEMENT IS FILED AS A FIXTURE FILING (SECTION 4-9-313) AND THE COLLATERAL IS GOODS WHICH ARE OR ARE TO BECOME FIXTURES, THEN IN THE REAL ESTATE RECORDS IN THE OFFICE OF THE COUNTY CLERK AND RECORDER IN THE COUNTY WHERE THE REAL ESTATE CONCERNED IS LOCATED;

(B) IN ALL OTHER CASES, IN THE OFFICE OF THE SECRETARY OF STATE OR IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF ANY COUNTY.

(II) THIS PARAGRAPH (b) IS EFFECTIVE JULY 1, 1996.

SECTION 3. 4-9-402 (1), (2), (3), (4), (7), and (8), Colorado Revised Statutes, 1992 Repl. Vol., are amended to read:

4-9-402. Formal requisites of financing statement - amendments - mortgage as financing statement. (1) (a) A financing statement is sufficient if it ~~gives~~ CONTAINS the names of the debtor and the secured party, ~~is signed by the debtor, gives~~ an address of the secured party from which information concerning the security interest may be obtained, ~~gives~~ a mailing address of the debtor, and ~~contains~~ a statement indicating the types, or describing the items of collateral. ~~Where a filing is~~

~~made with the secretary of state,~~ A financing statement must contain the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the federal internal revenue service taxpayer identification number of such debtor. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned.

(b) When the financing statement covers timber to be cut or covers minerals or other substances of value which may be extracted from the earth, or accounts subject to subsection (5) of section 4-9-103, or when the financing statement is filed as a fixture filing (section 4-9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5) of this section. A copy of the security agreement is sufficient as a financing statement if it contains the ~~above~~ information REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1). ~~and is signed by the debtor.~~ A carbon, photographic, or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(2) ~~A financing statement which otherwise complies with subsection (1) of this section is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in:~~

~~(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or~~

~~(b) Proceeds under section 4-9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or~~

~~(c) Collateral as to which the filing has lapsed; or~~

~~(d) Collateral acquired after a change of name, identity, or corporate structure of the debtor (subsection (7) of this section).~~

(3) A form substantially as follows is sufficient to comply with subsection (1) of this section:

Name of debtor (or assignor) . . . .
Address . . . .
Name of secured party (or assignee) . . . .
Address . . . .

1. This financing statement covers the following types (or items) of property:
(Describe) . . . .

2. (If collateral is crops) The above described crops are growing or are to be grown on:
(Describe real estate) . . . .

3. (If applicable) The above goods are to become fixtures on* (*Where appropriate

substitute either "The above timber is standing on" or "The above minerals or other substances of value which may be extracted from the earth, or accounts will be financed at the wellhead or minehead of the well or mine located on")

(Describe real estate) . . . .
and this financing statement is to be filed in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is __.

4.(If products of collateral are claimed) Products of the collateral are also covered.

~~(use whichever~~ . . . . ~~Signature of Debtor (or Assignor)~~
~~is applicable)~~ . . . . ~~Signature of Secured Party (or Assignee)~~

(4) A financing statement may be amended by THE filing ~~a writing signed by both the debtor and the secured party~~ OF AN AMENDMENT. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership, or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes ~~his~~ THE DEBTOR'S name or in the case of an organization its name, identity, or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading or ~~with respect to those filings in the secretary of state's office,~~ contains an incorrect debtor social security number or taxpayer identification number. ~~or was filed by the secretary of state with such number omitted from the filing.~~

SECTION 4. 4-9-403 (3), Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

4-9-403. What constitutes filing - duration of filing - effect of lapsed filing - duties of filing officer. (3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection (2) of this section. Any such continuation statement must ~~be signed by the secured party,~~ identify the original statement by file number and state that the original statement is still effective. ~~A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 4-9-405, including payment of the required fee.~~ Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the

same manner as provided in subsection (2) of this section unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise and except as provided in subsection (6) of this section, the filing officer may remove a lapsed statement from the files and destroy it or a microfilm or other photographic record thereof after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he OR SHE physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) of this section shall be retained.

SECTION 5. 4-9-404 (1), Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

4-9-404. Termination statement. (1) If a financing statement covering consumer goods is filed on or after January 1, 1978, within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party must file with each filing officer with whom the financing statement was filed a termination statement to the effect that he THE SECURED PARTY no longer claims a security interest under the financing statement, which shall be identified by file number. In other cases whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that he THE SECURED PARTY no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record complying with subsection (2) of section 4-9-405. If the affected secured party fails to file such a termination statement as required by this subsection (1) or to send such a termination statement within ten days after proper demand therefor, he THE SECURED PARTY shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

SECTION 6. 4-9-405 (2), Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

4-9-405. Assignment of security interest - duties of filing officer. (2) A secured party may assign of record all or a part of his THE SECURED PARTY'S rights under a financing statement by the filing, in the place where the original financing statement was filed, of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing he AND shall note the assignment on the index of the financing statement,

or in the case of a fixture filing, or a filing covering timber to be cut, minerals or other substances of value which may be extracted from the earth, or accounts subject to subsection (5) of section 4-9-103, he THE FILING OFFICER shall index the assignment under the name of the assignor as grantor, and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he THE FILING OFFICER shall index the assignment of the financing statement under the name of the assignee. Notwithstanding the provisions of this subsection (2), an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of section 4-9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this code.

SECTION 7. 4-9-406, Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

4-9-406. Release of collateral - duties of filing officer. A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record shall be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 4-9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer, he THE FILING OFFICER shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement.

SECTION 8. 4-9-410, Colorado Revised Statutes, 1992 Repl. Vol., is repealed as follows:

4-9-410. Forms to be prescribed by secretary of state. All filings required by this article to be filed in the office of the secretary of state shall be typewritten on forms which shall be prescribed by the secretary of state. However, any filing required pursuant to this section may be presented in handwritten form to the secretary of state with a statement that the filer does not have access to a typewriter or is not capable of typing the document. In such case, the secretary of state will cause the prescribed form to be typed. and returned for signature to the filer. Such form will then be accepted for filing upon receipt of the typed and signed document by the secretary of state.

SECTION 9. 4-9-411 (8), Colorado Revised Statutes, 1992 Repl. Vol., as amended, is amended to read:

4-9-411. Committee to make recommendation concerning implementation of filing system - legislative declaration - repeal. (8) This section is repealed, effective July 1, 1995 DECEMBER 31, 1996. HOWEVER, IF ALL MEMBERS OF THE CENTRAL INDEXING SYSTEM BOARD CREATED IN SECTION 4-9.3-103 ARE APPOINTED BEFORE DECEMBER 31, 1996, THE COMMITTEE CREATED IN THIS SECTION SHALL CEASE TO EXIST AND SHALL CEASE PERFORMING ITS FUNCTIONS ON THE DATE SUCH FINAL APPOINTMENTS ARE MADE.

SECTION 10. Part 4 of article 9 of title 4, Colorado Revised Statutes, 1992 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

4-9-412. Refiling required. (1) A FINANCING STATEMENT OR CONTINUATION STATEMENT FILED BEFORE JULY 1, 1996, WHICH HAS NOT LAPSED BY DECEMBER 31, 1997, SHALL LOSE ITS PERFECTION OR PRIORITY RIGHTS UNLESS A NEW CONTINUATION STATEMENT IS FILED AFTER JULY 1, 1996, BUT ON OR BEFORE DECEMBER 31, 1997, WHICH IDENTIFIES THE ORIGINAL STATEMENT BY FILE NUMBER AND INCLUDES A STATEMENT THAT THE ORIGINAL STATEMENT IS STILL EFFECTIVE. THE FILING OF A NEW CONTINUATION STATEMENT SHALL PRESERVE THE PRIORITY OF THE ORIGINAL FILING AND SHALL BE EFFECTIVE FOR FIVE YEARS FROM THE DATE OF THE FILING OF THE NEW CONTINUATION STATEMENT.

(2) THE EFFECTIVENESS OF A FINANCING STATEMENT OR CONTINUATION STATEMENT FILED BEFORE JULY 1, 1996, THAT LAPSES AFTER JULY 1, 1996, BUT BEFORE DECEMBER 31, 1997, MAY BE CONTINUED BY THE FILING OF A CONTINUATION STATEMENT AFTER JULY 1, 1996, IN ACCORDANCE WITH SECTION 4-9-403 (3).

SECTION 11. Title 4, Colorado Revised Statutes, 1992 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 9.3
Central Indexing System

4-9.3-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "CENTRAL INDEXING SYSTEM ACT".

4-9.3-102. Definition. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE CENTRAL INDEXING SYSTEM BOARD.

4-9.3-103. Central indexing system board. (1) (a) THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT OF STATE A CENTRAL INDEXING SYSTEM BOARD WHICH SHALL CONSIST OF THE FOLLOWING ELEVEN MEMBERS:

(I) TWO MEMBERS APPOINTED BY THE GOVERNOR FROM THE MEMBERS OF THE COLORADO ASSOCIATION OF CLERKS AND RECORDERS, ONE OF WHOM SHALL BE FROM A CATEGORY I OR II COUNTY AND ONE OF WHOM SHALL BE FROM A CATEGORY III, IV, OR V COUNTY;

(II) ONE MEMBER APPOINTED BY THE SECRETARY OF STATE TO REPRESENT THE DEPARTMENT OF STATE; AND

(III) EIGHT MEMBERS APPOINTED BY THE GOVERNOR, AS FOLLOWS:

(A) TWO MEMBERS WHO REPRESENT LENDERS;

(B) TWO MEMBERS WHO ARE AGRICULTURAL PRODUCERS;

(C) ONE MEMBER WHO IS A BUYER OF AGRICULTURAL PRODUCTS;

(D) ONE MEMBER WHO IS AN AUTOMOBILE REPRESENTATIVE;

(E) ONE MEMBER WHO IS A TITLE INSURANCE INDUSTRY REPRESENTATIVE; AND

(F) ONE MEMBER WHO IS A REPRESENTATIVE OF THE MOTOR VEHICLE DIVISION IN THE DEPARTMENT OF REVENUE.

(b) ALL MEMBERS SHALL BE APPOINTED NO LATER THAN DECEMBER 31, 1996. THE MEMBERS OF THE COMMITTEE APPOINTED PURSUANT TO SECTION 4-9-411 SHALL SERVE AS THE CENTRAL INDEXING SYSTEM BOARD AND SHALL HAVE ALL POWERS AND DUTIES OF SUCH BOARD UNTIL ALL MEMBERS HAVE BEEN APPOINTED PURSUANT TO THIS SECTION.

(2) (a) INITIAL MEMBERS SHALL BE APPOINTED TO THE BOARD AS FOLLOWS: THREE MEMBERS SHALL SERVE UNTIL JULY 1, 1997, THREE MEMBERS SHALL SERVE UNTIL JULY 1, 1998, THREE MEMBERS SHALL SERVE UNTIL JULY 1, 1999, AND TWO MEMBERS SHALL SERVE UNTIL JULY 1, 2000. ALL SUBSEQUENT APPOINTMENTS SHALL BE FOR TERMS OF FOUR YEARS. NO MEMBER OF THE BOARD SHALL BE ELIGIBLE TO SERVE MORE THAN TWO CONSECUTIVE TERMS.

(b) ANY VACANCY ON THE BOARD SHALL BE FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT. THE MEMBER APPOINTED TO FILL SUCH VACANCY SHALL BE FROM THE SAME CATEGORY DESCRIBED IN SUBSECTION (1) OF THIS SECTION AS THE MEMBER VACATING THE POSITION.

(3) THE DUTIES OF THE BOARD ARE TO:

(a) CREATE AND IMPLEMENT THE CENTRAL INDEXING SYSTEM;

(b) ESTABLISH POLICIES AND A BUDGET FOR THE CENTRAL INDEXING SYSTEM;

(c) DISBURSE FUNDS IN THE CENTRAL INDEXING SYSTEM CASH FUND, CREATED IN SECTION 4-9.3-105;

(d) OVERSEE THE DESIGN, OPERATION, AND IMPLEMENTATION OF THE CENTRAL INDEXING SYSTEM;

(e) MONITOR PROGRAM PERFORMANCE AND ACCOUNTABILITY;

(f) DETERMINE WHICH FILINGS TO PERFECT SECURITY INTERESTS AND NOTICES OF OTHER AGRICULTURAL LIENS CREATED BY LAW SHALL BE INDEXED IN THE CENTRAL INDEXING SYSTEM;

(g) ESTABLISH FEES TO BE CHARGED FOR ACCESSING INFORMATION IN THE CENTRAL INDEXING SYSTEM, WHICH FEES SHALL BE CREDITED TO THE CENTRAL INDEXING SYSTEM CASH FUND AND BASED UPON THE FOLLOWING FACTORS:

(I) THE FISCAL INTEGRITY OF THE CENTRAL INDEXING SYSTEM;

(II) THE RIGHT TO ACCESS PUBLIC INFORMATION AT A REASONABLE COST;

(III) THE MARKET VALUE OF CENTRAL INDEXING SYSTEM INFORMATION;

(IV) THE PROPER BALANCE BETWEEN FILING SURCHARGE FEES AND ACCESS FEES;

(V) THE AVAILABILITY OF OTHER FUNDING SOURCES;

(h) SELECT PUBLIC AGENCIES OR PRIVATE FIRMS TO ADMINISTER THE CENTRAL INDEXING SYSTEM;

(i) WORK WITH VARIOUS SALES TAX JURISDICTIONS TO RESOLVE THE CURRENT PROBLEM OF AUTOMOBILE LIEN PERFECTION AND THE COLLECTION OF SALES TAXES;

(j) ESTABLISH FEES FOR THE FILING OF EFFECTIVE FINANCING STATEMENTS AND CONTINUATION STATEMENTS;

(k) ESTABLISH FEES FOR THE FILING OF NOTICES OF AGRICULTURAL LIENS CREATED BY LAW AND PROMULGATE FORMS FOR SUCH FILINGS.

(l) ESTABLISH FEES FOR DISTRIBUTING THE MASTER LIST OR PORTIONS THEREOF TO BUYERS OF FARM PRODUCTS, COMMISSION MERCHANTS, AND SELLING AGENTS, OR FOR PROVIDING SUCH MASTER LIST OR PORTIONS THEREOF TO OTHER INTERESTED PARTIES PURSUANT TO ARTICLE 9.5 OF THIS TITLE IN PHOTOCOPY, MICROFICHE, OR COMPUTER-READABLE FORM. SUCH FEES SHALL NOT EXCEED THE ACTUAL COST OF PROVIDING THE LISTS IN THE FORM REQUESTED.

(4) THE BOARD SHALL NOT HAVE THE AUTHORITY TO ESTABLISH OR AMEND THE FEES FOR FILINGS TO PERFECT SECURITY INTERESTS ESTABLISHED PURSUANT TO SECTION 4-11-102 OR SECTION 24-21-104, C.R.S.

(5) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION, BUT THEIR EXPENSES SHALL BE REIMBURSED FROM THE CENTRAL INDEXING SYSTEM CASH FUND, CREATED IN SECTION 4-9.3-105.

(6) THE BOARD SHALL CHOOSE A CHAIRPERSON AND VICE-CHAIRPERSON FROM AMONG ITS MEMBERS AND MAY ESTABLISH SUCH ORGANIZATIONAL AND PROCEDURAL RULES AS ARE NECESSARY.

(7) SUCH ADMINISTRATIVE, CLERICAL, TECHNICAL, AND LEGAL ASSISTANCE AS THE BOARD MAY REQUIRE SHALL BE PROVIDED BY THE DEPARTMENT OF STATE, SUBJECT TO THE APPROVAL OF THE BOARD.

4-9.3-104. Central indexing system. (1) ON THE EARLIEST PRACTICAL DATE, THE BOARD SHALL IMPLEMENT THE CENTRAL INDEXING SYSTEM UNDER THE SUPERVISION OF A DESIGNEE OF SUCH BOARD.

(2) THE INDEXING OF A DOCUMENT PURSUANT TO THIS ARTICLE SHALL NOT CONSTITUTE NOTICE FOR PURPOSES OF SECTION 38-35-109, C.R.S.

4-9.3-105. Central indexing system cash fund - creation - repeal. (1) THE SURCHARGE ON FILINGS AND RECORDINGS MADE PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL FUND THE HARDWARE, SOFTWARE, PROGRAMMING,

MAINTENANCE, AND OTHER RELATED COSTS NEEDED TO ALLOW FOR THE ELECTRONIC FILING AND RETRIEVAL OF LIEN INDEX DATA UNDER THE CENTRAL INDEXING SYSTEM.

(2) THE SURCHARGES COLLECTED BY THE BOARD PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE CENTRAL INDEXING SYSTEM CASH FUND, WHICH FUND IS HEREBY CREATED. THE MONEYS IN SUCH FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE BOARD FOR THE PURPOSES DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

(3) A ONE DOLLAR SURCHARGE SHALL BE IMPOSED ON ANY AND ALL FILINGS AND RECORDINGS MADE WITH THE DIVISION OF COMMERCIAL RECORDINGS IN THE OFFICE OF THE SECRETARY OF STATE OR ANY OFFICE OF A COUNTY CLERK AND RECORDER, REGARDLESS OF THE STATUTE UNDER WHICH THE FILING OR RECORDING IS MADE; EXCEPT THAT SUCH SURCHARGE SHALL NOT BE IMPOSED ON FILINGS AND RECORDINGS FOR WHICH THERE IS NO CHARGE.

(4) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2000.

4-9.3-106. Duties of filing officer. (1) THE OFFICE OF THE SECRETARY OF STATE OR ANY COUNTY CLERK AND RECORDER RECEIVING A FILING TO PERFECT A SECURITY INTEREST OR AGRICULTURAL LIEN PURSUANT TO ARTICLE 9 OF THIS TITLE SHALL TRANSMIT A COPY OF SUCH FILING, INCLUDING ALL REQUIRED ELEMENTS OF A FINANCING STATEMENT AS STATED IN SECTION 4-9-402 (1), WHETHER RECEIVED ELECTRONICALLY OR BY HARD COPY, TO THE CENTRAL INDEXING SYSTEM IN A TIMELY MANNER.

(2) FOR PURPOSES OF THIS SECTION, "TIMELY MANNER" MEANS THAT:

(a) FILINGS RECEIVED BEFORE NOON ON ANY BUSINESS DAY WILL BE TRANSMITTED TO THE CENTRAL INDEXING SYSTEM NO LATER THAN THE END OF THE FOLLOWING BUSINESS DAY;

(b) FILINGS RECEIVED AFTER NOON WILL BE TRANSMITTED TO THE CENTRAL INDEXING SYSTEM NO LATER THAN THE END OF THE SECOND BUSINESS DAY FOLLOWING THE DAY OF RECEIPT.

(3) THIS SECTION SHALL TAKE EFFECT JULY 1, 1996.

SECTION 12. 4-9.5-103 (1), (7) (f), and (7) (j), Colorado Revised Statutes, 1992 Repl. Vol., as amended, are amended to read:

4-9.5-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the state central filing system board, created in ~~article 15 of title 35, C.R.S.~~ SECTION 4-9.3-103.

(7) "Effective financing statement" means a statement that:

(f) Remains effective for a period of five years from the date of filing, ~~provided the~~

annual maintenance fee established pursuant to section 35-15-105 (2) (i), C.R.S., is paid each year, subject to extensions for additional periods of five years each by filing a continuation statement within six months before the expiration of the current five-year period as provided in section 4-9.5-106 SUBJECT TO EXTENSIONS FOR ADDITIONAL FIVE-YEAR PERIODS BY FILING A CONTINUATION STATEMENT WITHIN SIX MONTHS BEFORE THE EXPIRATION OF THE CURRENT FIVE-YEAR PERIOD, AS PROVIDED IN SECTION 4-9.5-106;

(j) Is accompanied by the requisite filing fee, established pursuant to section 35-15-105, C.R.S. ARTICLE 9.3 OF THIS TITLE.

SECTION 13. 4-9.5-104 (5) (a), Colorado Revised Statutes, 1992 Repl. Vol., as amended, is amended to read:

4-9.5-104. Central filing system. (5) (a) The lists as identified pursuant to subsection (3) of this section shall be distributed by the board or its designee and shall reflect all then effective filings, calling attention to new filings, changes, and terminations since the last list, and shall be in writing or printed, microfiche and computer-readable forms. The board or its designees shall determine the frequency with which the lists identified pursuant to subsection (3) of this section shall be distributed. Such lists may be distributed on an annual basis with three quarterly cumulative supplements reflecting all new filings, changes, and terminations since the last list, if it is cost-effective, requested by registered buyers, and permitted by applicable federal law. The board shall also provide for the distribution by the board or its designee of the lists in direct computer access form and establish reasonable charges therefor pursuant to section 35-15-105, C.R.S. ARTICLE 9.3 OF THIS TITLE. The board may also develop other forms in which to distribute lists and establish charges therefor pursuant to section 35-15-105, C.R.S. ARTICLE 9.3 OF THIS TITLE. The distribution shall be made by first-class mail, postage prepaid. A registrant is deemed to be registered only as to those products, counties, and crop years for which the registrant requests a list. If the name of the seller of a farm product is not on a list requested and received by a registrant, the registrant shall have no liability under this article except as to those farm products for which the registrant has received direct notification of the existence of security interests pursuant to section 1324 (e) (1) and (g) (2) (A) of the federal "Food Security Act of 1985". The registrant may rely on the representation of the seller as to the seller's identity, so long as the reliance is in good faith.

SECTION 14. 4-9.5-108, Colorado Revised Statutes, 1992 Repl. Vol., as amended, is amended to read:

4-9.5-108. Filings generally. (1) The board or its designee or, pursuant to section 4-9.5-104 (1) (a), the county clerk and recorder or the secretary of state shall accept for filing all filings pursuant to this article during regular business hours. The board or its designee or, pursuant to section 4-9.5-104 (1) (a), the county clerk and recorder or the secretary of state shall record the date and hour of the filing of such statements and the board or its designee shall update the master list to reflect such statements. If the board or its designee or, pursuant to section 4-9.5-104 (1) (a), the county clerk and recorder or the secretary of state receives the statement in duplicate, one copy of the statement shall be returned to the filing party stamped to show the time of receipt thereof. All filings shall be submitted for filing on forms prescribed by the board.

(2) A DOCUMENT FILED PURSUANT TO THIS ARTICLE SHALL NOT CONSTITUTE NOTICE FOR PURPOSES OF SECTION 38-35-109, C.R.S.

SECTION 15. 4-9.5-110 (1) and (3), Colorado Revised Statutes, 1992 Repl. Vol., are amended to read:

4-9.5-110. Fees - rules and regulations. (1) Fees relative to matters in this article are prescribed and to be determined pursuant to ~~section 35-15-105, C.R.S.~~ ARTICLE 9.3 OF THIS TITLE. Any moneys appropriated to the board to implement this central filing system shall be reimbursed from the fees collected and deposited to the board's central filing system fund. The fees shall be determined based on the initial cost and the on-going cost to operate the system, and reimbursement to the general fund shall be made on or before June 30, 1992, so that the implementation of the system will be allocated over a three-year period, which will lessen the impact on the parties. The initial cost and the on-going cost to operate the system shall be calculated on the basis of actual direct costs. The board shall design the system so that the initial costs and the on-going cost to operate shall be minimized consistent with the quality of the system contemplated by the general assembly in this article.

(3) The board may contract with one or more public or private parties to perform some or all of its duties under this article; ~~as permitted by article 15 of title 35, C.R.S., and other applicable laws;~~ except that the board may not delegate the power to make rules or regulations, conduct public hearings, prescribe forms, and establish services and fees therefor.

SECTION 16. 4-9.5-113, Colorado Revised Statutes, 1992 Repl. Vol., as amended, is repealed as follows:

4-9.5-113. Repeal of article. ~~This article is repealed, effective July 1, 1996.~~

SECTION 17. 4-10-206 (4), Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

4-10-206. Required refilings. (4) With regard to statements permitted by this part 2 to be filed in accordance with this subsection (4), a financing statement may be filed within six months before the perfection of a security interest would otherwise lapse. Any such financing statement shall ~~be signed by either the debtor or the secured party. It shall~~ identify the security agreement, statement, or notice (however denominated in any statute or other law repealed or modified by the 1978 amendments), state the office where and the date when the last filing, refiling, or recording, if any, was made with respect thereto, and the filing number, if any, or book and page, if any, of recording and further state that the security agreement, statement, or notice, however denominated, in another filing office under the 1966 code or under any statute or other law repealed or modified by the 1978 amendments is still effective. Sections 4-9-103 and 4-9-401 determine the proper place to file such a financing statement. Except as specified in this subsection (4), the provisions of section 4-9-403 (3) for continuation statements apply to such a financing statement.

SECTION 18. 4-11-102, Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

4-11-102. Fees for filing, indexing, and furnishing data pursuant to sections 4-9-403 to 4-9-408 and article 9.3 of this title. (1) The filing officer shall charge a uniform fee in accordance with the following schedule:

(a) For filing, indexing, and furnishing filing data for an original ~~or a continuation~~ financing statement, pursuant to section 4-9-403: ~~Ten dollars.~~ FIFTEEN DOLLARS.

(a.5) (I) For filing ~~on or before~~ A CONTINUATION STATEMENT BETWEEN JULY 1, 1996, AND December 31, 1997: FIVE DOLLARS.

(II) FOR FILING, INDEXING, AND FURNISHING FILING DATA FOR A CONTINUATION STATEMENT, EXCEPT BETWEEN JULY 1, 1996, AND DECEMBER 31, 1997: FIFTEEN DOLLARS.

(b) For filing and indexing a separate ~~written~~ statement of assignment pursuant to section 4-9-404 (1): ~~Ten dollars.~~ FIFTEEN DOLLARS.

(c) For filing and indexing a termination statement pursuant to section 4-9-404 (2): ~~Ten dollars.~~ FIFTEEN DOLLARS.

(d) For filing, indexing, and furnishing filing data for a financing statement indicating an assignment of a security interest in the collateral described in the statement, pursuant to section 4-9-405 (1): ~~Ten dollars.~~ FIFTEEN DOLLARS.

(e) For filing, indexing, and furnishing filing data for a separate written statement of assignment, pursuant to section 4-9-405 (2): ~~Ten dollars.~~ FIFTEEN DOLLARS.

(f) For filing and noting a ~~signed~~ statement releasing all or a part of any collateral described in a filed financing statement, pursuant to section 4-9-406: ~~Ten dollars.~~ FIFTEEN DOLLARS.

(g) (I) For issuance of a certificate, pursuant to section 4-9-407 (2): Five dollars for the first year searched, plus two dollars for each additional year searched.

(II) For furnishing a copy of any filed financing statement or other statement, pursuant to section 4-9-407 (2): One dollar twenty-five cents per page, plus ~~fifty cents~~ ONE DOLLAR for certifying such copy and affixing the seal thereto.

(h) (Deleted by amendment, L. 91, p. 707, 1, effective July 1, 1991.)

(2) ~~When the filing officer is the secretary of state, the fee schedule in subsection (1) shall not apply, and the fees to be charged shall be determined and collected pursuant to section 24-21-104 (3), C.R.S.~~

SECTION 19. 24-21-104 (3) (b), Colorado Revised Statutes, 1988 Repl. Vol., is amended, and the said 24-21-104 (3), as amended, is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

24-21-104. Fees of secretary of state. (3) (b) The department of state shall adjust its fees, EXCEPT FEES CHARGED PURSUANT TO SECTION 4-11-102, C.R.S., every two years so that the revenue generated from said fees approximates its direct and indirect

costs. Such fees shall remain in effect for the two subsequent fiscal years following the adjustment. All fees collected by said department shall be transmitted to the state treasurer, EXCEPT MONEYS COLLECTED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (f) OF THIS SUBSECTION (3), who shall credit the same to the department of state cash fund, which fund is hereby created. All moneys credited to the department of state cash fund shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or any other fund. The moneys credited to the department of state cash fund shall be available for appropriation by the general assembly to the department of state in the general appropriation bill or pursuant to section 24-9-105 (2).

(f) WITH RESPECT TO THE MONEYS COLLECTED BY THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO SECTION 4-11-102 (1) (a), (1) (a.5) (II), (1) (b), (1) (c), (1) (d), (1) (e), AND (1) (f), C.R.S.:

(I) TWELVE OF EVERY FIFTEEN DOLLARS SHALL BE TRANSFERRED TO THE STATE TREASURER AND CREDITED TO THE DEPARTMENT OF STATE CASH FUND, PURSUANT TO THIS SUBSECTION (3);

(II) THREE OF EVERY FIFTEEN DOLLARS SHALL BE TRANSFERRED TO THE CENTRAL INDEXING SYSTEM CASH FUND, CREATED IN SECTION 4-9.3-105, C.R.S. SUCH MONEYS SHALL BE SEPARATELY ACCOUNTED FOR WITHIN SUCH FUND AND USED FOR REVENUE SHARING PURPOSES WITH THE COUNTIES OF THIS STATE, AS DETERMINED BY THE CENTRAL INDEXING SYSTEM BOARD.

(g) ALL MONEYS COLLECTED BY THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO SECTION 4-11-102 (1) (a.5) (I), C.R.S., SHALL BE TRANSFERRED TO THE STATE TREASURER AND CREDITED TO THE DEPARTMENT OF STATE CASH FUND PURSUANT TO THIS SUBSECTION (3).

(h) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT OF STATE SHALL CHARGE A UNIFORM FEE IN ACCORDANCE WITH THE SCHEDULE ESTABLISHED IN SECTION 4-11-102, C.R.S., FOR FILINGS AND INDEXING MADE PURSUANT TO SECTIONS 4-9-403 TO 4-9-408, C.R.S.

SECTION 20. Appropriation. (1) (a) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the central indexing system cash fund not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 1995, the sum of one million nine hundred fifteen thousand five hundred eighty-four dollars ($1,915,584), or so much thereof as may be necessary, for the implementation of this act.

(b) Paragraph (a) of this subsection (1) shall apply only if the central indexing system board contracts for the purpose of implementing the central indexing system, pursuant to sections 4-9.3-103 and 4-9.3-104, Colorado Revised Statutes.

(2) The moneys appropriated pursuant to paragraph (a) of subsection (1) of this section shall be appropriated as follows:

(a) To the department of state, for the fiscal year beginning July 1, 1995, the sum of eight hundred two thousand eight hundred eighty-nine dollars ($802,889), or so

much thereof as may be necessary, for the implementation of this act;

(b) To the department of law, for the fiscal year beginning July 1, 1995, the sum of fourteen thousand four hundred twenty-one dollars ($14,421), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from funds received by the department of state out of the appropriation made in paragraph (a) of this subsection (2);

(c) To the department of revenue, for the fiscal year beginning July 1, 1995, the sum of four hundred ten thousand five hundred ninety-five dollars ($410,595), or so much thereof as may be necessary, for the implementation of this act; and

(d) To the department of state, for the fiscal year beginning July 1, 1995, the sum of seven hundred two thousand one hundred dollars ($702,100), or so much thereof as may be necessary, for the implementation of this act, if such department is selected by the central indexing system board to operate the central indexing system, pursuant to sections 4-9.3-103 and 4-9.3-104, Colorado Revised Statutes.

SECTION 21. Effective date. This act shall take effect July 1, 1996; except that sections 2, 11, 16, 18, 19, 20, 21, and 22 of this act shall take effect July 1, 1995.

SECTION 22. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 1995